EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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JUN 21 1978

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer
Department of Defense
Department of the Treasury
Office of the Special Trade Representative
Central Intelligence Agency

SUBJECT: S. 3076, authorizing appropriations for the Department of State, International Communication Agency and the Board for International Broadcasting. The attached paragraphs represent what was worked out at last weeks meeting and subsequent policy level decisions by OMB and the National Security Council. Please advise us by Friday if you have any problems.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than C.O.B. Friday, June 23, 1978

~~Questions should be referred to~~ (~~)~~ ~~or to~~ Tracey Cole (395-4710), the legislative analyst in this office.

Ronald K. Peterson
for Assistant Director for Legislative Reference

Enclosures

S. 3076
(sec. 119(2))

Authority of chiefs of mission

The role of chiefs of missions is appropriately stated in 22 U.S.C. 2680a as it now stands. Amending the law, as subsection 119(2) does by inserting the phrase "notwithstanding any other provision of law" in paragraph (3) of 22 U.S.C. 2680a appears to supersede the statutory authority of the Director of Central Intelligence to protect intelligence sources and methods against unauthorized disclosure as set out in section 102(d3) of the National Security Act, as amended, (50 U.S.C. 403). The Administration believes that the current prefatory language to 22 U.S.C. 2680a, which states that the authorities and responsibilities therein are under the direction of the President, provides the appropriate means for chiefs of missions to seek information which they believe necessary to carry out their responsibilities. Furthermore, the subsection indiscriminately seeks to override other provisions of law, which have been enacted to limit the degree and nature of disclosure of matters of privacy, e.g., section 6103(a) of the Internal Revenue Code. Accordingly, the Administration recommends the deletion of subsection 119(2).

U.S./Soviet lend-lease agreement

S. 3076
(Section 408)

The Administration opposes Section 408 because it asks the President to do something that is not feasible in the time frame envisaged.

First the Section is misleading in describing the present situation as "problems relating to the development of non-discriminatory trade practices between the two nations". The current status of the lend-lease agreement of 1972 is as follows: Beyond three mandatory payments totalling $48 million (which have been made by the Soviet Union) the agreement provided that payment of the balance of $674 million was contingent on extension of most favored nation (MFN) treatment by the U.S. to the USSR. Section 402 (the Jackson-Vanik Amendment) of the Trade Act of 1975 prohibited extension of MFN to any market-economy country that denies its citizens the right or opportunity to emigrate. The Soviets advised us that they could not accept a discriminatory trade status and they made it clear that they would not provide the assurances on emigration required by the Act. Consequently, we were unable to extend MFN to the USSR, and no further lend-lease payments were made by the USSR. The Soviet Union continues to have a contingent obligation to pay the balance due under the lend-lease agreement at such time as the U.S. extends MFN to the USSR.

In the event that Section 408 of S. 3076 is passed, we strongly doubt that the Soviets would agree to any U.S. attempt to renegotiate the terms of the lend-lease agreement. They have consistently regarded the denial of MFN as a discriminatory act. As a matter of principle, they will almost certainly hold to the position that we first fulfill our part of the bargain by extending MFN.

S. 3076
(Sec. 501(b))

Late Reporting of International Agreements

The Administration is opposed to subsection 501(b). Reports which describe the reasons for any late transmittals of international agreements are already submitted to the Congress by the Assistant Legal Adviser for Treaty Affairs of the Department of State. This subsection will not provide additional information for the Congress. The purpose of the provision appears simply to have the President sign late reports, rather than the Assistant Legal Adviser for Treaty Affairs. We believe that the President should not be burdened with a task which is already being performed and which is of a relatively routine nature.

S. 3076
Section 501(c)

Coordination of International Agreements

The Administration supports the intent of Section 501 and believes that, if judiciously administered, the section can enhance the coherent and effective conduct of U.S. foreign policy. The establishment of a central point of review, mainly, the Secretary of State or the President, to ascertain whether proposed international agreements are consistent with each other and form an effective part of U.S. foreign policy, is appropriate and desirable. The Administration believes, however, that this can adequately be attained by requiring prior consultation, rather than prior approval, of the Secretary or the President. The requirement of approval introduces an element of rigidity that is likely to complicate and impede unduly the execution of the government's business. Accordingly, the Administration recommends the substitution of the words "consultation with" for the words "approval of" in subsection 501(c)(1)(A). In addition, subsection 501(c)(1)(B) should be revised to read: "Such consultation may encompass a class of agreements rather than particular agreements."

S. 3076
(Sec. 502)

Approval of International Agreements

The Administration is strongly opposed to this Section. The Administration's views on an earlier version of this proposal were set forth in a letter dated December 30, 1977 from Assistant Secretary of State Douglas J. Bennet, Jr. to Chairman Sparkman of the Senate Foreign Relations Committee, while its views on Section 502 as currently drafted were set forth in a letter dated May 8, 1978 from Secretary of State Vance to Chairman Sparkman. Copies of these letters are attached.